

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

KENT JONES,

Plaintiff,

v.

Case No. 06-11925-BC
Honorable David M. Lawson

STEVE HOOD, BENCY MATHAI, PEGGY
LEE, DEBBIE ROTH, STEVE DAKE,
TRAVIS JONES, HAROLD WHITE, JAN
EPP, JIM ARMSTRONG, GEORGE
PRAMSTALLER, and PATRICIA CARUSO,

Defendants.

**AMENDED ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION, OVERRULING PLAINTIFF'S OBJECTIONS, AND
DISMISSING CASE**

On June 21, 2006, Magistrate Judge Charles E. Binder filed a report pursuant to 28 U.S.C. § 636(b), recommending that this Court *sua sponte* dismiss the case for failure to state a claim upon which relief can be granted. The magistrate judge's report explicitly stated that the parties to this action could object to and seek review of the recommendation within ten days of service of the report. Under 28 U.S.C. § 636(b)(1), Federal Rule of Civil Procedure 6, and Local Rule 6.1, objections were due July 11, 2006, accounting for the July 4 holiday and the three additional days permitted by Federal Rule of Civil Procedure Rule 6(e) when service is by mail.

On July 13, 2006 at approximately 8:10 a.m., this Court inspected the docket, which disclosed no objections had been filed. The Court then filed an order adopting the magistrate judge's report and recommendation and dismissing the case. After the order was submitted for filing on July 13, 2006, the clerk filed objections apparently received from the plaintiff on July 12, 2006. The plaintiff's objections, nonetheless, were filed out of time. In addition, a review of the objections

reveals that they have no merit.

Moreover, the parties' failure to file timely objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object on a timely basis to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge, and the objections submitted to not alter that view.

Accordingly, it is **ORDERED** that the magistrate judge's Report and Recommendation [dkt # 7] is **ADOPTED**, the plaintiff's objections [dkt # 8] are **OVERRULED**, and the plaintiff's case is **DISMISSED WITH PREJUDICE**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: July 13, 2006

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 13, 2006.

s/Tracy A. Jacobs
TRACY A. JACOBS